

#8

PTO/SB/61 (10-00)
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)
3869/59156-083

First named inventor: Dr. Norbert Diekhans Group Art Unit: 3671
Application Number: 09/640,126 Examiner: Meredith C. Petravick
Filed: 16 August 2000
Title: Combine With a Device for Automatic Cleaning Regulation

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION
NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee

- ☐ small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.
- ☒ other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

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Repln. Ref: 08/23/2002 CKHLOK 0012134200
DAH:083460 Name/Number: 09640126
FC: 704 \$110.00 CR

A. The reply and/or fee to the above-noted Office action in the form of a Response and Amendment After Final Rejection (identify the type of reply):

☐ has been filed previously on _____

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

[Page 1 of 3]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

04/25/2002 AWONDAF1 00000116 09640126
01 FC:140 110.00 OP

Adjustment date: 08/23/2002 CKHLOK
04/25/2002 AWONDAF1 00000116 09640126
01 FC:140 -110.00 OP

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity of \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

23 April 2002

Date

Telephone
Number: (309) 637-4900

Richard J. Musgrave
Signature

Richard J. Musgrave, #44,960

Typed or printed name

Husch & Eppenberger, LLC

Address

401 Main Street, Suite 1400

Peoria, IL 61602-1241

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay Exhibits A-E

☒ Acknowledgment Card

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

"Express mail" mailing label number: EU241525547US

Date of Deposit: 23 April 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Box DAC, Commissioner for Patents, Washington, D.C. 20231.

Catherine S. Barnes
Catherine S. Barnes

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

23 April 2002

Date


SignatureRichard J. Musgrave, #44,960

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

Please see the enclosed Petition For Revival Of an Unavoidably Abandoned Patent Application Under 37 C.F.R. § 1.137(A) and Response to Office Action.

(Please attach additional sheets if additional space is necessary)



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Dr. Norbert Diekhans)	Art Unit 3671
Application No. 09/640,126)	Examiner: Meredith Petravick
Filed: 16 August 2000)	
For: <i>Combine With Device for Automatic</i>)	
<i>Cleaning Regulation</i>)	Peoria, IL 61602-1241
<u>Attorney Docket No. 3869/59156-083</u>)	23 April 2002

Box DAC
Commissioner for Patents
Washington, D.C. 20231

PETITION FOR REVIVAL OF AN UNAVOIDABLY ABANDONED PATENT
APPLICATION UNDER 37 C.F.R. § 1.137(a) AND
RESPONSE TO OFFICE ACTION

Dear Sir or Madam:

Applicant respectfully petitions for the revival of the above-identified patent application pursuant to 37 C.F.R. § 1.137(a) which was unavoidably abandoned.

I. THE ABANDONMENT OF THE PRESENT APPLICATION WAS
UNAVOIDABLE

The undersigned, after a reasonable investigation of the circumstances surrounding the abandonment of the present application, has determined that the abandonment resulted from a complete inability of the Applicant to be able to respond to the receipt of a Final Office Action because Applicant's Attorney of record failed to receive the Final Office Action.

Applicant's Attorney filed the above-mentioned application on August 16, 2000. The United States Patent and Trademark Office issued Office Action, paper number 4, dated January 31, 2001, which was received by Applicant's Attorney on February 5, 2001. In response, Applicant's Attorney mailed a Response and Amendment to the Office Action on April 30, 2001, which was received by the United States Patent and Trademark Office.

Thereafter, Applicant's Attorney received a Notice of Abandonment for failure to reply to the office letter mailed July 17, 2001 along with a mailing sheet dated February 26, 2002. The Notice of Abandonment and mailing sheet are attached as Exhibit A. Prior to receiving the Notice of Abandonment, Examiner Meredith Petravick telephoned Ms. Meridith Deverman, the undersigned's former legal secretary, and indicated that a response to the Final Office Action had not been received. Ms. Deverman and the undersigned reviewed the file, docket record book and computer database maintained by Husch & Eppenberger, LLC for evidence of the Final Office Action, but no evidence of same was found. The undersigned returned Examiner Petravick's telephone call and stated that the Final Office Action was not received. Examiner Petravick advised that she had to consult with her supervisor on how to proceed. Thereafter, she contacted the undersigned and indicated that she was instructed to issue a Notice of Abandonment.

Following receipt of the Notice of Abandonment, the undersigned telephoned Examiner Petravick on February 11, 2002 and requested a copy of the Office Action. Examiner Petravick then faxed the undersigned the Final Office Action dated July 9, 2001, a copy of which is attached hereto as Exhibit B.

Our office maintains a docket record book of all correspondence received from the United States Patent and Trademark Office. All correspondence is date-stamped and logged into the docket record book. Attached as Exhibit C are copies from the docket record book for the period July 9, 2001 through August 9, 2001. As you can see, our office never received the Final Office Action.

In addition, our office maintains a database for all pending patent applications, which includes a record of, *inter alia*, all correspondence received from the United States Patent and Trademark Office. When correspondence is received, the data is entered into the appropriate record in the database. Attached as Exhibit D is a copy of the record for the above-mentioned patent application. As you can see, there is no record of receipt of the Final Office Action.

Because we did not hear hearing anything further from the United States Patent and Trademark Office in response to our April 30, 2001 amendment, we assumed the case was allowed. Our office did not receive the Final Office Action, and we had no access to the document. We were first notified that the application was abandoned when we received a telephone call from Examiner Petravick on February 20, 2002. The application became abandoned as a consequence of the Final Office Action not being received by the Applicant's Attorney. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) **was completely and utterly unavoidable**. It is therefore earnestly requested that this patent application be revived because it is evident that the abandonment occurred through no fault of the Applicant.

A check in the amount of one hundred ten dollars (\$110.00) is enclosed to cover the petition fee as set forth in 37 C.F.R. §1.17(l). The Commissioner is hereby authorized to charge any deficiency and credit any overpayment to **Deposit Account No. 08-3460** upon successful revival of this Application.

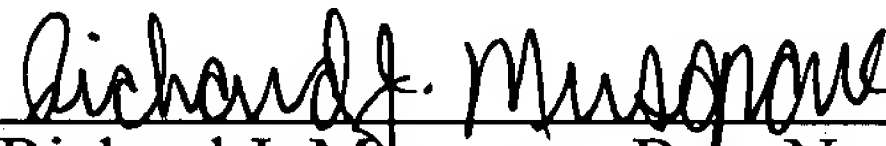
II. REQUIRED REPLY

In response to the Final Office Action, Applicant is filing concurrently herewith a response to the Final Office Action pursuant to 37 C.F.R. § 1.137(a)(1). A copy of the response is attached as Exhibit E.

Conclusion

The undersigned submits that the present application became **unavoidably** abandoned and requests that the present application be revived. If there are any questions or comments about this Petition, please contact the undersigned.

Respectfully submitted,



Richard J. Musgrave, Reg. No. 44,960
Husch & Eppenger, LLC
401 Main Street, Suite 1400
Peoria, Illinois 61602
Telephone: (309) 637-4900
Fax: (309) 637-4928

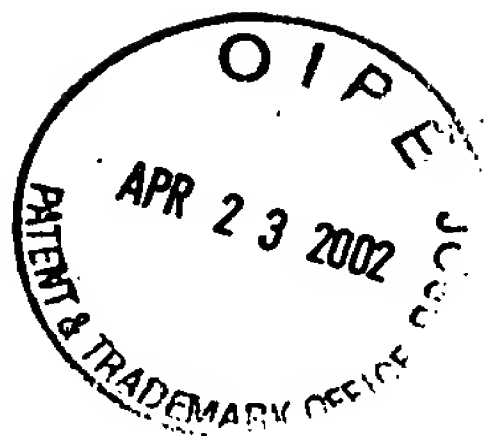


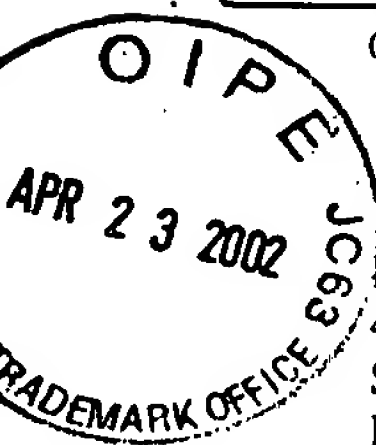
EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,126	08/16/2000	Norbert Diekhans	3869/59156-083	4584



7590 02/26/2002
Robert E Muir
Husch & Eppenger LLC
401 Main Street
Suite 1400
Peoria, IL 61602-1241

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT PAPER NUMBER

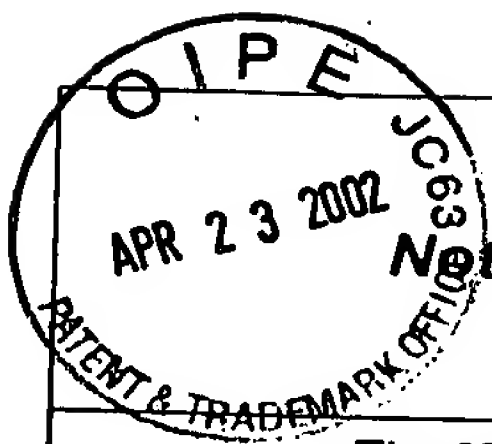
3671

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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Notice of Abandonment

Application No.

09/640,126

Examiner

Meredith C Petravick

Applicant(s)

DIEKHANS, NORBERT

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 7/16/01.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Thomas B. Will
Supervisory Patent Examiner
Group 3600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTO-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 7

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EXHIBIT B

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U.S. Department of Commerce
Patent and Trademark Office
Assistant Commissioner of Patents
Technology Center 3600
2451 Crystal Drive, Arlington VA

FAX COVER SHEET

To: Rick Musgrave

From: M. Petravick

Fax: 309-637-4928

Art Unit: 3671

Serial No.: 09/640,126

Date: 3/11/02

CC:

Phone No.: 703-305-0047

Urgent ☐ For Review

☐ Please Comment

☐ Please Reply

☒ For Your Request

Attached is a copy of the final office Action you requested.

Number of Pages 10, including this page.

STATEMENT OF CONFIDENTIALITY

This facsimile transmission is an official U.S. Government document that may contain information that is privileged and/or confidential. It is intended only for use of the recipient named above. If you are not the intended recipient, any dissemination, distribution or copying of this document is strictly prohibited. If this document is received in error, you are requested to immediately notify the sender at the above indicated telephone number and return the entire document in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231.

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Office Action Summary

Application No

09/640,126

Examiner

Meredith C Petravick

Applicant(s)

DIEKHANS, NORBERT

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-848) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1448) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 15 recites the limitation "means for restricting the possible adjustment ranges by predetermined limiting values." However, no examples of the type of means used or a description of the means is given in the specification. The specification only states that provisions are made to prevent the adjustment of the sieve beyond limiting values (page 7, line 23-28). Since it is not obvious to one of ordinary skill in the art what the means would be and the specification does not provide a description, the specification would not enable one skilled in the art to make the invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 15 contains the limitation "means for restricting the possible adjustment ranges by predetermined limiting values." However, the specification fails to provide examples or a

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description for the above means. Therefore, the claim is unclear since the equivalents of the means can not be determined from the limitation.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-2, 4-6, 8-12, 13 and 16-17 rejected under 35 U.S.C. 102(e) as being anticipated by Watt et al. 5,995,895 (Watt).

Watt discloses the claimed device on a combine harvester including a cleaning mechanism (46):

- sieves (48, 52)
- an adjustable fan (50)
- a member for adjusting the opening widths of the sieve (36)
- a sensor (80)

The sensor delivers a measuring signal to the member for adjusting the sieve and the rotation speed of the fan. (column 14, lines 14-22 and 31-38) The signal is dependent on the loading of the combine harvester but independent of the setting of the cleaning mechanism. A controller then sends a signal to adjust the widths of the sieve.

In regards to claims 4-6, the sensor receives a signal that measures the anticipated moisture content of the straw (column 11, lines 10-11), the amount of crop harvested (column 7, lines 29-34), or the ground speed of the combine harvester (column 10, lines 39-44).

In regards to claims 8-10, the harvester uses tables to determine the desired setting. (column 10, lines 61-65)

In regards to claim 12, the harvester includes means for altering the programmed function and the stored dependencies (100).

In regards to claim 13, the harvester has more than one sieve.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watt in view of Kruse et al. 4,487,002 (Kruse).

Watt discloses the claimed device except for the sensor detecting the amount of straw in the feeder housing of the combine harvester.

Like Watt, Kruse discloses an automated combine harvester, which detects the load of the crop in the harvester. Kruse teaches a sensor on the feeder to determine the amount of material entering the harvester. (Column 7, lines 31-34)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the sensor of Watt a sensor which measures the amount of straw entering the

harvester from the feeder as in Kruse, as an alternate type of sensor which determines the load of the material in the harvester

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watt in view of Herlitzius et al. 5,775,072 (Herlitzius), cited by applicant.

Watt discloses the claimed invention except for making the setting of the opening width of the sieve device dependent on the rotational speed of the fan.

Like Watt, Herlitzius also discloses a control system for a combine harvester with an adjustable sieve and fan. Herlitzius teaches that in order to optimally clean the grain the sieve openings have to be optimally arranged in dependence on the rotational speed of the fan.

(column 3, lines 16-26)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to control the sieve opening in dependent relation to the fan speed as taught in Herlitzius, in order to optimize the cleaning of the grain.

6. Claims 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watt.

Watt discloses the claimed device except for having four independently controlled sieves instead of two. The number of sieves that are independently controlled is an obvious design choice. Since the invention is a control system that on a combine harvester, it would be well within the ordinary skill of one in the art to control any number of sieves that happened to be on a type of harvester with the control system.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watt in view of Hofer 6,117,006.

Watt discloses the claimed device except means for restricting the possible adjustment ranges by predetermined limiting values.

Like Watt, Hofer discloses an adjustable sieve. The sieve is adjustable within a finite range. This prevents the sieve from being fully closed or fully open.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the adjusting sieve of Watt with a means for restricting the possible adjustment ranges of the sieve openings as taught in Hofer, in order to prevent the sieve from being fully closed or fully open.

Response to Arguments

8. Applicant's arguments filed 4/30/01 have been fully considered but they are not persuasive.

In the amendment filed 4/30/01, applicant amended claims 1, 3, 16 and 17, which were rejected under 35 U.S.C. 112, 2nd paragraph. Applicant has overcome the rejection of claim 1, 3, 16 and 17 under 35 U.S.C. 112. Also, applicant argues the rejection of claim 15 under 35 U.S.C. 112 and the rejection of claims 1-17 under 35 U.S.C. 102(b) or 35 U.S.C. 103(a).

Claim 15 was rejected under 35 U.S.C. 112 because the limitation "means for restricting the possible adjustment ranges by predetermined limiting values" was not enabled in the specification.

In response to this rejection, applicant argues the graphs or tables used to determine the amount of movement of the sieve can also be used to restrict the range of the limits. However,

the specification fails to disclose that the table and graphs are used to limit the range of movement of the sieve. The specification does not state whether the last entries in the table or graph are the limits of movement or whether some other numbers on the table or graph are the limit. In fact, the specification does it state that the movement of the sieve is limited. Therefore, claim 15 remains rejected.

Claims 1-2, 4-6, 8-12, 13, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Watt.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a load sensor) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Contrary to applicant's argument, the limitation **"at least one sensor whose measuring signal is dependent on the loading** to which the combine harvester is subjected by the crop but which is independent of the setting of the cleaning mechanism" does not limit the invention to only a sensor which directly measures the load as argued by applicant. The limitation recites a sensor whose measuring signal is dependent on the loading. Watt discloses a sensor (80) that gives a signal to the sieves. The signal is dependent on the loading of the harvester at a specific location. A GPS system inputs a location and the sensor derives the load at that location and then sends a signal to adjust the sieves. Therefore, Watt discloses the invention as claimed in claims 1, 16, and 17.

Claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Watt in view of Kruse.

Applicant argues that Kruse does not disclose a sensor measuring the amount of straw. Kruse states, "An indication of the material flow through the feeder indicated that at some future time similar flow could be expected at the threshing mechanism." (Column 7, lines 31-34) Here Kruse teaches the use of a sensor to indicate the amount of material so that the amount of material in the threshing mechanism could be determined. This teaching can be applied to any material including straw. Therefore, claim 3 remains rejected.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watt in view of Herlitzius.

Applicant argues that Herlitzius does not disclose changing the size of the sieve opening in dependence with the fan speed. As applicant point of Column 3, line 16-44 states, "In order to attain this optimum operation a certain relationship must be maintained between the mechanical processing of the crop, the width of the sieve opening, and the blower output." Contrary to applicant's arguments this statement clearly discloses a relationship between the sieve openings and the blower output. Therefore, claim 7 remains rejected.

Therefore, for at least the reason's given above, claims 1-17 remain rejected under 35 U.S.C. 112 and/or 102(e) and/or 103(a).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.

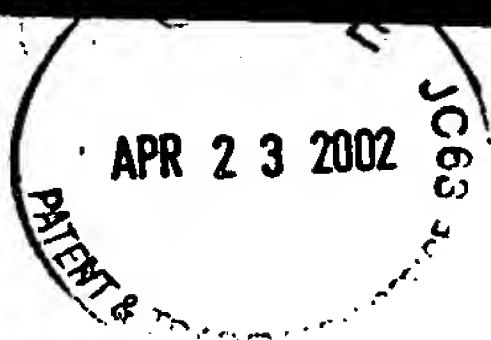
**Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671**

MCP
July 9, 2001



EXHIBIT C

RECEIVED
APR 25 2002
OFFICE OF PETITIONS



7.6.01	Filing Receipt	63236-001
7.6.01	Filing Receipt (corrected)	3752 59156-059
7.6.01	Ackn. card; Specification; drawings; declaration; transmittal letter (2); IDS; PTO-1449 u/ 4 refs; priority document; \$728 & \$40	20095959-010
7.6.01	Ackn. card; Amendment transmittal letter (2); Amendment; \$80	3614 59156-074
7.6.01	Office Action; Detailed action; PTO-892 u/ 7 refs	3837 59156-019 CIP
7.9.01	Ackn. card; Specification; drawings; transmittal letter to the US BO/EO (2); IDS; PTO-1449 u/ 4 refs; preliminary amendment; \$430	67097-003
7.9.01	Ackn. card; Amendment	3893 59156-073
7.9.01	Filing Receipt	64251-021
7.9.01	Ackn. card; Amendment	60015-002-D
7.9.01	Ackn. card; transmittal letter (2); submission of missing parts and formalities letter - part 2; declaration; IDS; PTO-1449 u/ 7 refs; \$65	67185-001
7.9.01	Notice of Abandonment	61228-001
7.9.01	Notice of Publication of application	60886-009-D
7.10.01	Ackn. card; Part B - Issue Fee Transmittal; drawings; letter to official drafts person; \$1240	3833 59156-045
7.10.01	Ackn. card; transmittal letter; IDS; PTO-1449; German Search Report & English language version; ref; priority document	3929 59156-09

7.10.01	transmittal letter (2); submission of missing parts and formalities letter part 2; declaration; PTO-1595; Assignment; priority document; \$130 and \$40	64251-022
7.11.01	office action; PTO-892 w/ 2 rebs; PTO-1449	64251-007
7.11.01	Office action; PTO-892 w/ 2 rebs; PTO-1449	64251-009
7.13.01	Filing Receipt	3918 59156-094
7.13.01	Notice to File Missing parts of nonprovisional Application	3918 59156-094
7.13.01	Certified copy of Pat. 6,257,072	
7.13.01	Filing Receipt	67243-001-CIP
7.13.01	Filing Receipt	65028-002
7.13.01	Ackn. card; transmittal letter (2); submission of missing parts; Formalities letter part 2; Declaration; Assignment; PTO-1595; \$130 and \$40	3923 59156-093
7.13.01	Filing Receipt	00001-012
7.16.01	Filing Receipt	67127-001
7.16.01	Filing Receipt	67423-001
7.18.01	Ackn. card; Specification; drawings, provisional Patent application transmittal letter (2); \$75	63774-002
7.18.01	Ackn. card; Specification; drawings; transmittal letter (2); nonpublication request form PTO/SP/35; IDS; PTO-11119 w/ 9 rebs; \$484	63785-001

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7.19.01	Ackn. card; Preliminary amendment	67097-001
7.19.01	Notification Concerning Submission or Transmittal of Priority Document	63153-002-PC
7.19.01	Notification of Receipt of Record Copy	64777-001-PC
7.19.01	Notification of Recordation & Assignment Document; PTD-1619; Assignment	64251-019
7.20.01	Notification of Transmittal of the International Search Report or the Declaration; International Search Report; 4 refs.	63153-002-PC
7.20.01	Notice of Allowability; PTD-1449; Interview Summary; Examiner's Amendment; Part B - Issue Fee Transmittal	1547 59539-001
7.23.01	Notice of Publication of Application	60160-001-UP
7.23.01	Ackn. card; Specification; drawings; provisional patent application transmittal letter(s); \$75	67531-001
7.23.01	Ackn. card; Supplemental IDS; PTD-1449; German 3919 59156-088 Search Report & English language version w/ 4 refs.	
7.23.01	Notice of Recordation & Assignment Document; PTD-1545; Assignment	62774-011
7.23.01	Filing Receipt	67335-002
7.23.01	Filing Receipt	64251-028
7.23.01	Notice to File Missing Parts	64251-028
7.23.01	Notice of Publication of Application	64251-018

1	7.23.01	Filing Receipt	64251-019
PC	7.26.01	Filing Receipt	66830-001
PC	7.26.01	Ackn. Card; Response to Restriction Requirement and Associated Amendment	63770-001
9	7.27.01	Filing Receipt (Updated)	67097-001
PC	7.27.01	Ackn. Card; transmittal letter (2); specification; drawings; \$75 deposit account charge	67235-003
OK	7.30.01	Ackn. card; part B - Issue Fee Transmittal; \$1240 and \$6	385259156-063
	7.30.01	Ackn. card; petition for correction of assignee names; notice of Recordation of Assignment DOC; request for certificate of correction; PTO/SR/44 (2); \$130 and \$100	60461002
285	7.30.01	Ackn. card; transmittal letter (2); submission of missing parts 1/1 copy of missing parts formalities letter; declaration; assignment; PTO-1595; \$130 & \$40	64251-023
	7.30.01	Ackn. card; transmittal letter (2); submission of missing parts and notice to file missing parts - part 2, assignment; PTO-1595; declaration; priority document; \$130 & \$40	3932 59156-091
	7.30.01	Issue Notification 09/389,568 Pat 6,249,708	3895 59156-065
	7.30.01	Issue Notification 29/131,025 Pat. D 446,304	64251-003
	7.30.01	Issue Notification 09/413,067 Pat. 6,272,820	6256 59156-067
	7.30.01	Notice of Allowance; Examiner's Amendment; Part B - Issue Fee Transmittal	60015-002-D

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7.30.01	Office action; PTO-1449; Detailed action; PTO-892 w/ 3921 59156-081 6 refs.
7.30.01	Office action; Detailed action; PTO-1449; PTO- 3816 59156-008-0 892 w/ 4 refs.
7.30.01	Ackn. card; Information Disclosure Statement; 64251-022 PTO-1449 w/ 9 refs.
7.30.01	Ackn. card; transmittal letter (2); Submission 3943 59156-092 of missing parts and notes + File Missing Parts formalities letter - Part 2; declaration; PTO-1595; Assignment; \$130 & \$40
8.3.01	Office action; detailed action; PTO-892; 1 ref. 3893 59156-073
8.3.01	Ackn. card; Amendment; drawings 3802 59156-075
8.3.01	Filing Receipt 67805-001
8.3.01	Filing Receipt 63774-007
8.6.01	Filing Receipt 57294-012
8.6.01	Updated Filing Receipt 67185-007
8.7.01	Ackn. card; Specification; drawings; provisional 67335-004 patent application transmittal letter (1); \$75 (deposit act.)
8.8.01	Ackn. card; Specification; drawings; provisional 67335-005 patent application transmittal letter (1); \$75 (dep. act.)
8.9.01	Ackn. card; Supplemental IPC, PTO-1449 w/ 21 refs. 63153 (02 B)
8.9.01	Decision on petition 59466-002

8.9.01	Notice of Recordation of Assignment Document; PTO-1595	60674-003
8.9.01	Notice of Recordation of Assignment Document; PTO-1595	60674-002
8.10.01	Notice of Recordation of Assignment Document; PTO-1595	60674-002
8.10.01	Ackn. card; provisional patent application transmittal letter; \$75 charge to deposit acct.	Wood
8.10.01	Filing Receipt	64975-001
8.10.01	Certified copy of Pat. D446,304	64251-003
8.13.01	Office Communication; 1 reference (incomplete)	63770-001
8.13.01	Filing Receipt	3944 59156-095
8.13.01	Notice of Allowability; Examiner's Statement of Reasons for Allowance; PTO-892; PTO-1449; Part B- Issue Fee Transmittal	59156-086
8.13.01	Notice of Allowability; Examiner's Statement of Reasons for Allowance; PTO-948; Part B-Issue Fee Transmittal	3752 59156-059
8.13.01	Notice of Allowability; Interview Summary; PTO-948; Part B-Issue Fee Transmittal	2009/59539-009
8.13.01	Office Action, Detailed Action; PTO-1449; PTO-892; 6 refs	3897 59156-080
8.13.01	Ackn (and) Spec; dup; declaration; Timely Letter (2) Engl. Translation of Article 19 Amendment, Annexes to IPR; IDS; German Search Report + Engl. version; PTO-1449; 6 refs; Preliminary Amendment; \$439; Small Entity Assertion	64251-033

EXHIBIT D

03/12/2002

Patent Information Print

Docket No 3869/59156-083
Country United States
Case Type Regular
Relation Type Continuation
Filing Type National
Filing No
Attorney Robert E. Muir
Agent
Client\Divisio Claas KGaA
Current Owner Claas Selbstfahrende
Prev Own
Status Filed
First Filing D 02/13/1999
Sub Stat
Sub Stat Dt
Parent Country Germany
Parent Filing 02/20/1998
Parent No 198 07 145.0
Parent Grant D
Total Claims 17
Ind. Claims 3

Application #
Application Dt
Patent No
Grant Dt
Publication #
Publication Dt
Assigned
Expiration Dt
Conv Type
Tax Base Dt
Next Tax Dt
Associate
Oper Grp
Ag Ref No
Verified
Customer
Create Dt
Update Dt
Update Tm
Update User
Update Type

09/640126
08/16/2000



Assignment Recorded

PCT Convention

N
UBPP
08/21/2000
03/12/2002
1016
DKM

Actions

Action Info Discl. Statement Resp Atty #1
Act Due Date 11/16/2000 Resp Atty #2
Comp Dt 08/16/2000

Action 1st Office Action Resp Atty #1
Act Due Date 01/31/2001 Resp Atty #2
Comp Dt 04/30/2001

Act Notes
PTO-326 Detailed Action PTO-1449 PTO-892 4 refs

Action Response 1st Office Action
Resp Atty #1

Act Due Date 04/30/2001 Resp Atty #2
Comp Dt 04/30/2001

Action Formal Filing Receipt Receiv
Resp Atty #1

Act Due Date Resp Atty #2
Comp Dt 10/16/2000

Act Notes
Group Art Unit 3671

Action Return Receipt Card Received
Resp Atty #1

Act Due Date Resp Atty #2
Comp Dt 08/28/2000

Act Notes
Transmittal letter (2) specification drawings declaration
assignment PTO-1595 IDS PTO-1449 14 refs
preliminary amendment \$690 and \$40

Action Notice of Abandonment Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 03/04/2002

Act Notes
Notice of Abandonment for failure to reply to office action
mailed on 16 July 2001 (never received)

Action Application Mailed Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 08/16/2000

Act Notes
Transmittal Letter (2) Specification Declaration Assignme
nt PTO-1595 IDS PTO-1449 14 refs
Preliminary Amendment \$690 \$40 (PCT Bypass)

Action File Assignment Resp Atty #1

Act Due Date
Comp Dt 08/16/2000 Resp Atty #2

Act Notes
PTO-1595 Assignment \$40

Action Demand For Pre.Exam. PCT Cha
Resp Atty #1

Act Due Date
Comp Dt 09/16/1999 Resp Atty #2

Action Foreign Filing Complete Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt

Action PCT App. Filed Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 02/13/1999

Act Notes
PCT/EP99/00963

Action IDS Filed Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 08/16/2000

Act Notes
PTO-1449 14 refs concise explanation of relevance provided

Action International Examination Re
Resp Atty #1

Act Due Date
Comp Dt 05/19/2000 Resp Atty #2

Act Notes
International Preliminary Examination Report

Action Return Receipt Card Received
Resp Atty #1

Act Due Date
Comp Dt 08/28/2000 Resp Atty #2

Act Notes
Transmittal Letter (2) Assignment PTO-1595 IDS PTO-1449
14 refs Preliminary Amendment

Action 1st Office Action Filed Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 04/30/2001

Kevin M. Kercher

Act Notes
Amendment acknowledgment card

Action Application Date Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 08/16/2000

Action Amendment Resp Atty #1
Act Due Date Resp Atty #2
Comp Dt 08/16/2000

Act Notes
Preliminary Amendment

Action International Examination Re
Resp Atty #1

Act Due Date
Comp Dt 09/15/1998 Resp Atty #2

Act Notes
German Action

Action Notice of Recordation of Ass
Resp Atty #1

Act Due Date
Comp Dt 11/17/2000 Resp Atty #2

Act Notes
PTO-1595 Assignment \$40 Reel/Frame: 011088/0987

Action	Return Receipt Card Received
	Resp Atty #1

Act Due Date		Resp Atty #2
Comp Dt	05/08/2001	

Act Notes
Amendment

Action	Search Report	Resp Atty #1
Act Due Date		Resp Atty #2
Comp Dt	05/26/1999	

Act Notes
PCT International Search Report

****Expenses****

Exp	US Filing Fees	Exp Dt	08/16/2000
Amt	690	Inv No	

Exp	Expense 1 total	Exp Dt	08/16/2000
Amt	40	Inv No	Assignment

****Inventors****

Inv Name	Norbert Diekhans	Assigned	07/03/2000
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Title

Title
Combine With a Device for Automatic Cleaning Regulation



EXHIBIT E